



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107

C. LAPSLEY

NOTICE OF POTENTIAL LIABILITY AND OFFER TO NEGOTIATE  
FOR REMOVAL ACTION  
URGENT LEGAL MATTER --- PROMPT REPLY NECESSARY  
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

J. E. Henry  
Hercules Inc. - Jefferson Plant  
State Highway 837  
W. Elizabeth, PA 15088-0567

MAY - 6 1991

Re: Elrama School Site  
Elrama, Washington County, PA

Dear Mr. Henry:

This letter confirms notification of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9607(a), as amended (CERCLA), that your company, Hercules Inc. may incur or may have incurred with respect to the above-referenced site. This letter also notifies your company, Hercules Inc. of forthcoming removal activities at the site which your company, Hercules Inc. may be asked to perform or finance at a later date.

NOTICE OF POTENTIAL LIABILITY

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973 (RCRA), and other laws, PRPs may be obligated to implement response actions deemed necessary by EPA to protect health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be liable for damages to natural resources. EPA may issue an

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administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, under Section 106(b) of CERCLA, or imposition of treble damages, under Section 107(c)(3).

EPA has evaluated information in connection with the investigation of the site. Based on this information, EPA believes that your company, Hercules, Inc., may be a PRP with respect to this site. PRPs under CERCLA include current owners and operators of the site, owners and operators at the time of disposal, as well as persons who arranged for disposal or treatment of hazardous substances sent to the site, or persons who accepted hazardous substances for transport to the site. By this letter, EPA notifies your company, Hercules Inc. of your potential liability with regard to this matter and encourages you to voluntarily perform or finance those response activities that EPA determines are necessary at the site.

#### SITE RESPONSE ACTIVITIES

At present, EPA is planning to conduct the following activities at the site:

1. Mobilization of cleanup contractor equipment and establishment of an onsite command post;
2. Further characterization of the Site by conducting additional sampling of soils at the Site and water and sediment sample downstream of the Site;
3. Restricting the Site from unlimited access by the construction of a fence;
4. Stabilization of the area containing the waste materials;
5. Demobilization of all contractor equipment and personnel from the Site;
7. Transport and disposal of hazardous waste to a RCRA approved facility.

#### DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to negotiate formally the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities

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at the site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. It is EPA's policy not to use the special notice procedures for removals unless there is a 6-month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this response action is less than 6 months, special notice procedures will not be used. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

#### DEMAND FOR PAYMENT

With this letter, EPA demands that you reimburse EPA for its costs incurred to date, and encourages you to voluntarily negotiate a consent order in which you and other PRPs agree to perform the response action.

In accordance with CERCLA, EPA already has undertaken certain actions and incurred certain costs in response to conditions at the site. These response actions include, but are not limited to, activities mentioned above. EPA may demand these costs from you at some time in the future. Your company, Hercules, Inc. is potentially liable for additional costs plus interest if EPA conducts additional activities at the site.

#### ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA must establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files, which contain the documents related to the response action selected for this site, will be available to the public for inspection and comment. The primary location is generally the EPA Regional office located at 841 Chestnut Building, Philadelphia, PA 19107.

#### PRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA within 10 days of your receipt of this letter to indicate your willingness to participate in future negotiations at this site. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume you do not wish to negotiate a resolution of your liabilities in connection with the response, and that you have declined any involvement in performing the response activities. You may be held liable under Section 107 of CERCLA for the cost

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of the response activities EPA performs at the site and for any damages to natural resources.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein. Your response to this notice letter should be sent to:

U.S. Environmental Protection Agency  
Glen S. Lapsley (3HW33)  
Removal Enforcement Section  
841 Chestnut Building  
Phila., PA 19107  
(215) 597-6684

If you or your attorney have any questions pertaining to this matter, please direct them to Glen Lapsley, referred to above, or A. J. D'Angelo, Assistant Regional Counsel, at (215) 597-9226.

Sincerely,



Abraham Ferdas, Director  
Office of Superfund  
Hazardous Waste Management Division

cc: Amy Cohen

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